

REPLY

The Examiner made a non-statutory double-patenting rejection based on the judicially created doctrine grounded in public policy. The Examiner indicated that in U.S. Patent No. 6,539,442, claims 1-4 contained every element of claims 3-6 of the instant application. A terminal disclaimer is being submitted with this Amendment and Reply, together with the terminal disclaimer fee of \$130.00.

The Examiner also rejected claims 3 and 4 under 35 USC \$103(a) as being unpatentable over Kikinis et al in view of Liu et al.

Liu et al discloses the simultaneous access to both a tape drive and disk drive through the use of an application process for managing access to the tape drive and an interface. An application program is used to switch communication back to the tape drive by switching the state of the disk selection bit. (Liu et al, column 12, lines 13-18) Routines allow the application to have its own driver routines for interfacing with the tape drive and to use the ROM BIOS routines for accessing the disk. (Liu et al column 11, lines 11-15).

Additionally, Liu et al specifically teaches the use of the BIOS with the application that switches control. Liu et al specifically indicates that the data archival application switches control of the interface from the tape drive to the disk drive and then calls the ROM BIOS disk service routines. In this manner, the data archival application may control simultaneous operation of the disk and tape drive while utilizing the ROM BIOS disk service routines to ensure compatibility. (*Liu et al*, column 3, lines 48-54).

The present application teachings and claims that the CD-ROM software driver acts independently from a BIOS of the personal computer. Claim 3 specifically recites that a CD-ROM software driver switches a drive selection bit so that the CD-ROM apparatus is selected by switching the drive selection bit only **independently** from a BIOS of the personal computer.

Claim 4 additionally specifically recites that the CD-ROM apparatus is selected by switching only a drive selection bid in the IDE interface by a CD-ROM software driver **independently** from a BIOS of the personal computer.

Accordingly, even should the teachings of Kikinis et al and Liu et al be combined, the teachings of Liu et al would motivate one to provide applications or driver routines that use the ROM BIOS routines and therefore are not independent of the ROM BIOS.

Claim 4 has been amended slightly to make it clearer by replacing the word "drive" with --software driver--.

It is respectfully requested that the Examiner reconsider the present application, indicate additional allowable subject matter, and forward the Notice of Allowance.

Respectfully submitted,



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